

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

vs.

JUAN ALVAREZ-MORALES,

Defendant-Petitioner.

CASE NO. 11-CR-5051

ORDER
(1) DENYING PETITIONER'S
MOTION FOR TIME REDUCTION
PURSUANT TO 28 U.S.C. § 2255
AND
(2) DENYING CERTIFICATE OF
APPEALABILITY

Petitioner Juan Alvarez-Morales filed a motion for reduction of time pursuant to 28 U.S.C. § 2255. He seeks relief on the grounds that due to his alien status he is ineligible for a one year reduction of sentence through a drug program, an early release to a half-way house, or a Unicolor job. [Pet. at 2.] Petitioner argues that the availability of these programs to United States citizens but not to aliens violates the Equal Protection Clause of the Fourteenth Amendment, deprives him of Due Process under the Fifth Amendment, and violates the Equal Rights Act of 1964.¹ [*Id.*]

DISCUSSION

Petitioner pleaded guilty to Importation of Cocaine in violation of 21 U.S.C. §§ 952 & 960, which carries a maximum sentence of up to life in prison and a mandatory minimum sentence of 10


¹ Petitioner submitted a three page Petition in which he simply lists the Constitutional clauses.

1 years in prison. [Doc. 17, at 3.] As part of his plea agreement he waived his rights to appeal or
2 collaterally attack his sentence. [Doc. 17, at 10.] Petitioner's motion raises no challenge to the validity
3 of that waiver, therefore this Court lacks jurisdiction to consider any collateral challenge to his
4 conviction and sentence. *See Washington v. Lampert*, 422 F.3d 864, 869-70 (9th Cir. 2005)
5 (recognizing that if sentencing agreement's waiver of the right to file a federal habeas petition was
6 valid, district court lacked jurisdiction to hear the case).

7 Accordingly, Petitioner's Motion For Reduction of Sentence pursuant to 28 U.S.C. § 2255 is
8 **DISMISSED WITH PREJUDICE.**

9 **IT IS SO ORDERED.**

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11 DATED: October 11, 2012

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13 M. James Lorenz
14 United States District Court Judge
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